

Judge: Washington in contempt in mental health case

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Seattle PI

Updated 2:25 pm, Thursday, July 7, 2016

SEATTLE (AP) — A federal judge on Thursday held Washington state's mental health services agency in contempt for failing to comply with her order to provide competency services to mentally ill defendants in a timely fashion.

The [Department of Social and Health Services](#) is violating the constitutional rights of these people by forcing them to wait weeks or months in jail before receiving competency evaluations or treatment to restore their competency, U.S. District Judge [Marsha Pechman](#) said in her order.

Last year, Pechman issued a permanent injunction that required the state to fix the problems at its state hospitals, but on Thursday she said mentally ill people are still languishing in jails.

In May, only 20 percent of defendants ordered to receive in-hospital competency evaluations were admitted within seven days and only 32 percent of those ordered to receive competency treatment were admitted within a week, she said. In one case, a defendant waited in jail for treatment for 97 days after he was found incompetent to stand trial, she said.

"The people of Washington deserve to have their mental health needs and the needs of their spouses, parents, children, and friends attended to with the same urgency and dignity our society expects hospitals to respond with when presented with a broken bone or a cancerous tumor," Pechman said.

In order to force the state to comply, Pechman ordered sanctions of \$500 to \$1,000 per day for each person who is forced to wait more than a week for those services.

[Adolfo Capestany](#), a spokesman for the agency, says they are consulting with their lawyers and will comment at a later time.

The lawyers representing the mentally ill defendants in the class action lawsuit praised Pechman's contempt order.

"The court has made it crystal clear that the state can no longer drag its heels and ignore the court's directives," said [La Rond Baker](#), with the [American Civil Liberties Union of Washington](#). "The state must act now to ensure that it no longer tramples the rights of pre-trial detainees ordered to receive competency services."

[Emily Cooper](#) of Disability Rights Washington said the department has had years to fix the problem on their own.

"Instead of listening to the court monitor or its own experts, DSHS has continued to waste money and time on unproven solutions," Cooper said.

The state's two psychiatric hospitals have struggled in recent years. [Western State Hospital](#) faced the loss of millions in Medicare and Medicaid funds over the past year due to repeated safety violations and after two dangerous patients escaped from Western State Hospital in April, Gov. [Jay Inslee](#) fired the facility's CEO and said he was redoubling efforts to fix the state's troubled mental health system.

The Legislature increased funding for the department, the state hired more evaluators and staff, increased salaries for mental health workers and opened new beds at several locations, but their efforts to lower the wait-times were not enough, Pechman said. The defendants continue to wait for beds at both facilities, she said.

The agency has "failed to take appropriate responsibility for failings caused by DSHS's own actions and inactions," she said. The agency failed to meet "each and every wait-time benchmark" set in the injunction and repeatedly ignored or minimized their failures, she said.

Therefore, starting on Friday, the state will pay a fine for each day beyond seven that a defendant waits in jail for competency services. Pechman fined the state \$500 per day for each defendant who waits more than seven but fewer than 14 days. For people waiting longer than two weeks, the state must pay \$1,000 per day, she said.

The fines will be deposited into the court's registry and will be used to benefit the mentally ill defendants and to create diversion programs designed to reduce the dependence on state hospitals, she said.

Seattle lawyer [Chris Carney](#), who represents some of the mentally ill defendants, said the ruling "says that enough is enough."

"Enough excuses, enough failure of leadership, enough needless suffering," Carney said. "It's time for serious commitment from the state, time to do what it takes to meet its

obligation to vulnerable people in desperate need. We hope this ruling is a wake-up call."

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